NIGERIA

The Department of State submitted this report to the Senate Committees on Foreign Relations and on Finance and to the House Committees on Foreign Affairs and on Ways and Means, on January 31, 1999.

Key Economic Indicators

(Billions of U.S. Dollars unless otherwise indicated)

	1996	1997	1998 1/
Income, Production, and Employment:			
Nominal GDP 2/	34.6	38.4	N/A
Real GDP Growth (pct) 3/	4.3	3.7	N/A
GDP by Sector (pct):			
Oil	36.2	36.5	N/A
Agriculture	31.5	31.7	N/A
Manufacturing	6.5	6.3	N/A
Industry	6.4	6.3	N/A
Services	25.9	25.6	N/A
Government	9.9	10.8	N/A
Per Capita GDP (US$)	250	260	N/A
Labor Force (millions)	43.8	43.0	N/A
Unemployment Rate (pct)	27.0	27.0	N/A
Money and Prices (annual percentage growth):			
Money Supply Growth (M2)	16.8	16.9	N/A
Consumer Price Inflation	14.3	10.2	N/A
Exchange Rate (Naira/US$ annual average)			
Official	22	22	22
Parallel	84	84	86
Weighted Average	82	82	82
Balance of Payments and Trade:			
Total Exports FOB 4/	16.1	15.2	N/A
Exports to U.S. 5/	5.8	6.3	4.5
Total Imports FOB	6.4	9.5	N/A
Imports from U.S. 5/	0.8	0.8	0.8
Trade Balance	9.7	5.7	N/A
Trade Balance with U.S. 5/	5.3	6.2	2.4
Current Account Deficit/GDP (pct)	8.5	1.2	N/A
External Public Debt	28.1	28.6	N/A
Debt Service Payments/GDP (pct)	30	31	N/A
Deficit/GDP (pct)	-1.3	-1.1	N/A

Gold and Foreign Exchange Reserves	4.1	7.6	N/A
Aid from U.S. (US$ millions)	N/A	N/A	N/A
Aid from All Other Sources	N/A	N/A	N/A

1/ 1998 figures, except exchange rates, are all estimates based on available monthly data in October.

2/ Converted using annual average market exchange rates of 81.883 and 81.456 respectively.

3/ Percentage changes calculated in local currency.

4/ Merchandise trade.

5/ Source: U.S. Department of Commerce and U.S. Census Bureau; exports FAS, imports customs basis; 1998 figures are estimates based on data available through October 1998.

1. General Policy Framework

Nigeria is Africa's most populous nation and the United States' fifth largest oil supplier. It offers investors a low-cost labor pool, abundant natural resources, and the largest domestic market in sub-Saharan Africa. However, it also suffers from an autocratic military government, inadequate infrastructure, confusing and inconsistent regulations, and endemic corruption. Nigeria's crucial petroleum sector provides the government with over 90 percent of all foreign exchange earnings and at least 60 percent of budgetary revenue. Agriculture, which accounts for about 32 percent of GDP and employs about two-thirds of the labor force, is dominated by small-scale subsistence farming. Nigeria is a member of the World Trade Organization (WTO).

After a period of relative fiscal austerity in the late 1980s, the Nigerian Government ran budget deficits of up to 12 percent of GDP beginning in 1990. By postponing government spending (including for debt service), the government shrank the deficit to seven percent in 1994 and by 1996 reported a surplus of 1.6 percent of GDP; for the majority of 1997, the budget continued to run a surplus. However, the deficit reduction and ensuing surplus came about primarily through austerity -- e.g., foregoing government projects and infrastructure maintenance -- aided by stronger-than-expected oil revenue in 1997. In the long run, this failure to maintain critical infrastructure, especially oil refineries, has further disrupted the economy and slowed Nigeria's growth. At the same time, the cap on debt service payments has lead to a dramatic increase in arrears and severely strained Nigeria's relations with its bilateral creditors.

In previous years, monetary policy has been driven by the need to accommodate the government's budget deficit and a desire to reduce the inflationary impact of the budget deficit on the economy. Deficits at the federal level have been financed primarily by borrowing from the Central Bank of Nigeria (CBN), which held 85.1 percent of the government's domestic debt at the end of 1997. Since the CBN monetizes much of the deficit, budgetary shortfalls have a direct impact on the money supply and on price levels, which had risen rapidly for several years but have since slowed. In 1996, the government also began releasing money from an extra-budgetary account called the Petroleum Trust Fund (PTF) for infrastructure and other projects.

In 1998, Nigeria continued the policy of "guided deregulation" instituted in the 1995 budget. In conjunction with his 1994 budget announcement, former head of state General Sani Abacha announced the abandonment of most 1986 structural adjustment program reforms and instituted tight government control over key economic variables. In response to the economic downturn caused by those measures, Abacha's 1995 budget abandoned the tightly regulated economic policies enacted in 1994. Under the new policy, the government reopened the Autonomous Foreign Exchange Market (AFEM), loosened controls on foreign investment and reduced tariffs and bans on some imports. The 1998 budget continued the trend of fiscal austerity and the slow deregulation of the economy. Although former Minister of Finance Anthony Ani said that privatization of the telecommunications and electrical generating parastatals would commence in 1997, by October 1998 little progress had been made.

The new head of state, General Abdulsalam Abubakar, has also reiterated the government's intention to privatize parastatals such as the Nigeria Telecommunications PLC (NITEL) and the National Electric Power Authority (NEPA). In this privatization plan, 40 percent of NITEL's shares will be reserved for foreign businesses, 20 percent for Nigerian private investors, and 40 percent for the government. There is no word yet on NEPA's privatization plans. In 1998, the realization of the budgeted revenue is untenable because it was predicated on oil prices remaining at or above $17 per barrel, $5 above current world oil prices. The price of Nigeria's Bonny Light Crude fell below $10 per barrel by early December, and will likely average under $13 for the year. The Nigerian Government, in a budget review, cut capital expenditure to reduce the deficit resulting from lower oil prices. Notable areas earmarked for budget cuts are power, steel, and communications. In addition, the government in October announced a drawdown of $1.8 billion from external reserves to meet its expenditure needs.

2. Exchange Rate Policy

In 1997, Nigeria continued the liberalizing of the foreign exchange mechanism instituted in 1995. Under the foreign exchange decree of 1995, the AFEM was reestablished, allowing private companies to source foreign exchange at the parallel market rate (about 86 naira to the dollar in October 1998). The official exchange rate of 22 naira to the dollar has been retained for an estimated 15 percent of government transactions. Companies can now hold domiciliary accounts in private banks, with "unfettered" use of the funds. Foreign investors may bring capital into the country without Finance Ministry approval, and may service foreign loans and remit dividends. Currency exchange offices are functioning, albeit with a limitation of $2,500 per transaction. The CBN has continued to intervene in the AFEM at regular intervals, going from monthly interventions in 1995 to weekly interventions in 1996.

The Nigerian head of state has pledged to merge the exchange rates by the end of 1998; however, as of mid-December, no action has been taken. Ending the dual exchange rate would both enhance the country’s financial transparency and accountability, and lay the groundwork for an IMF staff-monitored program and the rescheduling of Paris Club debt. The unification would also please the business community. The rate at which a unified naira would be pegged is being debated, with most favoring a rate close to the present market rate.

3. Structural Policies

As stated in the December 1986 circular "Industrial Policy of Nigeria," the government maintains a system of incentives to foster the development of particular industries, to encourage firms to locate in economically disadvantaged areas, to promote research and development in Nigeria, and to favor the use of domestic labor and raw materials. The Industrial Development (Income Tax Relief) Act of 1971 provides incentives to "pioneer" industries deemed beneficial to Nigeria's economic development. Companies given "pioneer" status may enjoy a non-renewable tax holiday of five years, or seven years if the pioneer industry is located in an economically disadvantaged area.

In 1995, Nigeria promulgated the Nigerian Investment Promotion Commission Decree to replace the Enterprises Promotion Act. This decree liberalized the foreign investment regime, allowing 100 percent foreign ownership of firms outside the petroleum sector. Investment in the petroleum sector is still limited to existing joint venture agreements in which the Nigerian Government retains a majority share, though there has been discussion of the government selling off some or all of its portions of the joint ventures. A foreign enterprise may now buy shares of any Nigerian firm except those on the "negative list": production of firearms, ammunition, narcotics, military and paramilitary apparel. The Investment Promotion Decree provides for the creation of an Investment Promotion Commission that will register companies for foreigners after incorporation under the Companies and Allied Matters Decree of 1990. The decree also abolishes the expatriate quota system (except in the oil sector) and prohibits any nationalization or expropriation of a foreign enterprise by the Nigerian Government except for such cases determined to be in the national interest.

Nigeria has gradually begun to implement the 1995 Money Laundering Decree, which introduced bank reporting procedures designed to inhibit this practice. There is also a decree against advance-fee fraud (called 419 fraud after the relevant section of the Nigerian Criminal Code.) However, as of 1998, there has been only limited success in reducing financial fraud. The broad scope of business fraud has brought international notoriety to Nigeria and constitutes a serious disincentive to exporters, since any international transaction must be thoroughly vetted.

4. Debt Management Policies

Nigeria's foreign debt ballooned from $13 billion in 1981 to $24 billion in 1986, when sharply lower oil revenues and continued high import levels escalated balance of payments deficits. Debt service obligations including payment of arrearages, are projected to be over $8 billion annually for the next several years. However, according to the 1997 Central Bank of Nigeria's annual report, Nigeria's total debt stock at the end of 1997 fell to $27.09 billion, compared to $28.06 billion in 1996. The reduction was attributable to principal repayments, debt reconciliation, particularly the Paris Club debts, and conversion of some debts under the Debt Conversion Program. The exact debt figure is still in dispute with multilateral financial institutions. The 1998 budget allowed only $2 billion for foreign debt payments, thus ensuring continued build-up of arrears.

In January 1992, in an effort to reduce its external debt, the government concluded an agreement with the London Club that gave commercial banks a menu of options from which to choose in reducing Nigeria's commercial debt. The menu included debt buy backs (currently at 48 cents to the dollar), new money bonds, and collateralized par bonds. As a result of the agreement, Nigeria was able to reduce its external debt by $3.9 billion, but the accumulation of arrears on other debt (especially Paris Club debt), which currently represent 70 percent of total debt stock, has kept external debt levels high.

From 1986 to early 1992, on the basis of a comprehensive structural adjustment program, Nigeria reached three standby agreements with the IMF. The last one lapsed in 1992.

Discussions with the IMF since then have shown some progress, as evidenced by the 1996 decapping of interest rates and removal of the mandatory sectoral credit allocations for banks, but have failed to result in a new agreement.

Nigeria's most recent rescheduling agreement with the Paris Club expired at the same time as its standby agreement with the IMF, and debt repayment obligations on Paris Club debt have continued to grow. (Nigeria has kept up to date on its multilateral and London Club debt.) In 1992 Nigeria made payments of $2.7 billion against interest and principal payment obligations of $5 billion. However, faced with similar obligations in the following years, external debt service payments were only budgeted at $1.6 billion for 1993, $1.8 billion for 1994, and $2 billion yearly from 1995 to 1998. In 1997, actual debt service payments were $503.5 million or 25.2 percent of the $2 billion budgeted. No new rescheduling agreement will be reached with Nigeria until a medium-term IMF program is in place, though Nigeria has yet to implement the reforms required for the preliminary, short-term staff-monitored Fund program.

5. Significant Barriers to U.S. Exports

Nigeria abolished all export licensing requirements and cut its list of banned imports in 1986. However, as of November 1998, the importation of approximately 13 items is still banned. These bans were initially implemented to restore Nigeria's agricultural sector and to conserve foreign exchange. Although the bans are compromised by widespread smuggling, the reduced availability of grains has raised prices for both banned commodities and locally produced substitutes. The government discontinued fertilizer subsidies for farmers in 1997, but widespread fertilizer shortages persist.

In 1995, Nigeria announced a new tariff structure for the next five years. Revisions aimed to narrow the range of custom duties, increase rate coverage in line with WTO provisions, and decrease import prohibitions. The following previously banned commodities are now subject to duty rates: rice, 50 percent; day-old chicks and parent stock, 5 percent; sparkling wines and champagne, 100 percent plus 40 percent excise; fruits and fruit juices, 75 percent; jute bags, 45 percent; cigarettes, 200 percent; cotton, 60 percent; wheat, 10 percent; and passenger vehicles, 30 to 100 percent. However, a 25-percent-across-the-board reduction in tariffs became effective in January 1997, thus reducing the above rates. The reductions followed complaints of importers that duty was calculated on the basis of 80 naira to the dollar, rather than the official rate of 22 naira to the dollar used in 1994. Also, in 1995 the Nigerian Ports Authority reduced port charges by 60 percent in Lagos and 70 percent at the other delta ports. In 1998, the government removed additional items from the import prohibition list, but subjected them to heavy duty rates: live, chilled or frozen poultry and eggs (excluding day-old chicks), 150 percent; beer and stout, 100 percent; barley and malt, 20 percent; and mineral and similar waters, 100 percent.

Other import restrictions apply to aircraft and oceangoing vessels. All imported aircraft and ocean-going vessels must be inspected by a government authorized inspection agent. In addition, performance bonds and off-shore guarantees must be arranged before either down payments or subsequent payments are authorized by the Ministry of Finance.

In 1996, to reduce congestion and corruption in Nigerian ports and following a reported shortfall in customs receipts, the government changed the procedures by which goods enter or leave the country. All unaccompanied imports and exports regardless of value require preshipment inspection. Imports must be accompanied by an Import Duty Report (IDR). Goods arriving without an IDR will be confiscated by the government. In addition, all goods are assessed a one-percent surcharge to cover the cost of inspection. Nigeria generally uses at best a modified open tender system for awarding government contracts, and foreign companies incorporated in Nigeria receive national treatment. Approximately five percent of all government procurement contracts are awarded to U.S. companies.

6. Export Subsidies Policies

In 1976, the government established the Nigerian Export Promotion Council (NEPC) to promote non-oil exports. The Council administers incentive programs, including a duty drawback program, the export development fund, tax relief and capital assets depreciation allowances, and a foreign currency retention program. The duty drawback or manufacturing in-bond program is designed to allow the duty free importation of raw materials to produce goods for export, contingent on the issuance of a bank guaranteed bond. The performance bond is discharged upon evidence of exportation and repatriation of foreign exchange. Though meant to promote industry and exportation, these schemes have been burdened by inefficient administration, confusion and corruption, causing great difficulty and, in some cases, losses to those manufacturers and exporters who opted to use them.

The NEPC also administers the export expansion grant program, a fund that provides grants to exporters of manufactured and semi-manufactured products. Grants are awarded on the basis of the value of goods exported, and the only requirement for participation is that the export proceeds be repatriated to Nigeria. Though the grant amounts are small, ranging from two to five percent of total export value, they may constitute subsidies as defined by the WTO and raise questions about compliance with WTO obligations.

7. Protection of U.S. Intellectual Property

Nigeria is a signatory to the Universal Copyright Convention and the Berne Convention. In 1993, it became a member of the World Intellectual Property Organization (WIPO), thereby becoming party to most of the major international agreements on intellectual property rights. Cases involving infringement of non-Nigerian copyrights have been successfully prosecuted in Nigeria, but enforcement of existing laws remains weak, particularly in the patent and trademark areas. Recently, Nigeria's active participation in international conventions has yielded positive results. Law enforcement agents occasionally carry out raids on suspected sites for production and sale of pirated tapes, videos, computer software and books. Piracy is widespread, but prosecution under the copyright law is slow. However, since the TRIPS (Trade Related Intellectual Property Rights) agreement was signed under the Uruguay Round in 1993, the

Nigerian Copyright Council has intensified efforts to combat piracy by organizing workshops for law enforcement agents on copyright issues.

The Patents and Design Decree of 1970 governs the registration of patents, and the Standards Organization of Nigeria is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent conveys an exclusive right to make, import, sell, or use the products or apply the process. The Trademarks Act of 1965 governs the registration of trademarks. A trademark conveys the exclusive right to use the registered mark for a particular good or class of goods.

The Copyright Decree of 1988, based on WIPO standards and U.S. copyright law, criminalizes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner. Progress on enforcing the 1988 law is slow. The expense and time necessary to pursue a copyright infringement case discourage prosecution of such cases.

Few companies have sought trademark or patent protection in Nigeria because it is generally perceived as ineffective. Losses from piracy are substantial, although the exact cost is difficult to estimate. Most recordings sold in Nigeria are pirated, and the video industry is based on the sale and rental of pirated tapes. Satellite signal piracy is also common. Violation of patents on pharmaceuticals is also a problem.

8. Worker Rights

a. The Right of Association: Nigerian workers, except members of the armed forces and employees designated essential by the government, may join trade unions and may strike. Essential employees include firefighters, police, employees of the central bank, the security printers (printers of currency, passports, and government forms), and customs and excise staff. Nigeria has signed and ratified the International Labor Organization's (ILO) convention on freedom of association. However, the government has decreed a single central labor body, the Nigerian Labor Congress (NLC), and deregistered other unions. Under Nigerian law, any non-agricultural enterprise that employs more than 50 persons must recognize trade unions and pay or deduct a dues checkoff for union members. In the past, the government has threatened to withdraw the dues checkoff provision and make union dues voluntary if unions pursue strikes. The Abacha regime's failure to abide by ILO conventions to which Nigeria has subscribed was the subject of an ILO "special paragraph" censuring the Nigerian Government. The Abubakar administration accepted an ILO fact-finding mission and took other steps to correct the abuses that led to the ILO censure.

b. The Right to Organize and Bargain Collectively: Nigerian labor laws permit the right to organize and bargain collectively. Collective bargaining is common in many sectors of the economy. Nigerian law protects workers from retaliation by employers for labor activity through an independent arm of the judiciary, the Nigerian Industrial Court. Trade unionists have complained, however, that the judicial system's slow handling of labor cases constitutes a denial of redress. The government retains broad authority over labor matters, and can intervene forcefully in disputes it feels challenge its key political or economic objectives. In 1996, for example, the Abacha regime banned the University Lecturers' Union to force an end to their strike, and in 1994 it dismissed the executive councils of the NLC and the two leading petroleum sector unions. The government replaced the leadership of these unions with government-appointed "sole administrators." The Abubakar administration returned these bodies to direct union control in 1998.

c. Prohibition of Forced or Compulsory Labor: The 1974 Labor Decree and the 1979 Constitution prohibit forced or compulsory labor. While this prohibition is generally observed, forced labor has been "employed" in some community clean-up projects. The ILO has noted that with the 1979 constitution suspended, Nigeria may not be able to enforce the ILO convention against forced labor.

d. Minimum Age for Employment of Children: Nigeria's 1974 Labor Decree prohibits employment of children under 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law stipulates that no person under the age of 16 may be employed for more than eight hours per day. The decree allows the apprenticeship of youths under specific conditions. Primary education is compulsory in Nigeria, though rarely enforced. Actual enrollment is declining due to the continuing deterioration of public schools. Increasing poverty and the need to supplement meager family incomes have also forced more children into the employment market.

e. Acceptable Conditions of Work: Nigeria's 1974 Labor Decree established a 40-hour workweek, prescribed 2 to 4 weeks of annual leave, set a minimum wage, and stipulated that workers are to be paid extra for hours worked over the legal limit. The decree states that workers who work on Sundays and legal holidays must be paid a full day's pay in addition to their normal wages. There is no law prohibiting excessive compulsory overtime. In 1998, the federal government raised for all federal employees the minimum monthly wage (salary and allowances) to N5,280.00 ($60) from N450 ($5.00). The new minimum wage does not apply to state workers or those in the private sector. The last minimum wage review took place in 1991. The 1974 decree contains general health and safety provisions. Employers must compensate injured workers and dependent survivors of those killed in industrial accidents. Enforcement of these laws by the Ministry of Labor is largely ineffective.

f. Rights in Sectors with U.S. Investment: Worker rights in petroleum, chemicals and related products, primary and fabricated metals, machinery, electric and electronic equipment, transportation equipment, and other manufacturing sectors are not significantly different from those in other major sectors of the economy.

Extent of U.S. Investment in Selected Industries -- U.S. Direct Investment Position Abroad on an Historical Cost Basis **--** 1997

(Millions of U.S. Dollars)

Category		Amount
Petroleum		1,373
Total Manufacturing		54
Food & Kindred Products	(1)	
Chemicals & Allied Products	20	
Primary & Fabricated Metals	-1	
Industrial Machinery and Equipment	0	
Electric & Electronic Equipment	0	
Transportation Equipment	(1)	
Other Manufacturing	0	
Wholesale Trade		15
Banking		43
Finance/Insurance/Real Estate		(1)
Services		0
Other Industries		(1)
TOTAL ALL INDUSTRIES		1,465

(1) Suppressed to avoid disclosing data of individual companies.

Source: U.S. Department of Commerce, Bureau of Economic Analysis.